

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Cause No. 1:19-cv-00032
)	
ONE 2015 CHEVROLET CITY EXPRESS LS)	
VIN 3N63M0YN1FK725252,)	
)	
Defendant.)	

COMPLAINT OF FORFEITURE IN REM

The United States of America, by counsel, Josh J. Minkler, United States Attorney for the Southern District of Indiana, and Eric P. Babbs, Special Assistant United States Attorney, alleges as follows:

NATURE OF THE ACTION

1. This is a civil action seeking forfeiture of certain property pursuant to 21 U.S.C. § 881(a)(4) because the defendant property facilitated violations of the Controlled Substances Act.

PARTIES, JURISDICTION, AND VENUE

2. The defendant property is one 2015 Chevrolet City Express LS VIN 3N63M0YN1FK725252 (the “Defendant Vehicle”). The Defendant Vehicle has been assigned Asset Identification Number 17-DEA-633855.

3. The Defendant Vehicle was seized by the United States Drug Enforcement Administration (“DEA”) on August 15, 2017, and is currently in the custody of the DEA.

4. This Court has subject matter jurisdiction under 28 U.S.C. § 1345 (district courts have original jurisdiction of all civil actions commenced by the United States) and § 1355 (district courts have original jurisdiction of any action for forfeiture, and action can be brought in

a district in which any of the acts giving rise to the forfeiture occurred).

5. This Court has *in rem* jurisdiction over the defendant property under 28 U.S.C. § 1355(b) (forfeiture action can be brought in a district in which any of the acts giving rise to the forfeiture occurred), and Rule G(3)(b)(i) of the Supplemental Rules for Certain Admiralty and Maritime Claims and Asset Forfeiture Actions (clerk must issue a warrant to arrest property in the government's possession).

6. This Court is the appropriate venue in this matter pursuant to 28 U.S.C. § 1395(a) and (b), in that the forfeiture accrued in the Southern District of Indiana.

FACTS

7. From at least May 2016 through approximately August 2017, in the Southern District of Indiana, Victor Boyd ("Boyd") conspired with others to possess with intent to distribute, and to distribute, controlled substances including heroin, methamphetamine, marijuana, oxycodone, and hydrocodone. Boyd was a member of a drug trafficking organization ("DTO") that operated out of Indianapolis. Boyd directed the activities of other DTO members, including Joshua Nelson ("Nelson"), David Quintana ("Quintana"), and Shaquille Miller ("Miller").

8. From April 2016 through May 2017, the DEA utilized a confidential informant to execute seven controlled buys of heroin from Quintana and four controlled buys of heroin from Miller.

9. On July 29, 2017, DEA agents conducted surveillance of Nelson, who was directed by Boyd to pick up a sample of oxycodone from an individual in Gary, Indiana. Nelson and Boyd, who were using the same cellular phone, agreed to meet the then-unidentified individual ("UM") at a Petro truck stop in Gary. The Defendant Vehicle – a newer, white-

paneled van – was utilized for this trip.

10. Nelson stated to the UM via cellular phone, “I’m about to be heading out. I’mma call you as soon as I get like an hour ... forty five minutes out.” The UM replied, “you guys take the five that I have and then you guys ... could test it ... if you told me this is good to go ... I’ll get you 500.”

11. At approximately 10:20 a.m., the Defendant Vehicle was observed to leave from Boyd’s residence at 9421 E. 10th Street, Indianapolis, Indiana. Electronic surveillance indicated that Nelson traveled from the vicinity of 9421 E. 10th Street to Gary, Indiana.

12. DEA agents observed the Defendant Vehicle pull into the gas pump area at the Petro stop. Also in the vicinity, agents observed a silver 2016 Nissan Maxima that was registered to an address in Skokie, Illinois. Intercepted communications between Nelson and the UM indicated that the UM was driving this type of vehicle. Nelson stated to the UM that he was in the “White van” and, “I’m at P# 4.”

13. The silver Maxima parked close to the Defendant Vehicle. A Hispanic male exited the silver Maxima and walked over to the passenger side of the Defendant Vehicle. During this meeting, the Hispanic male delivered a sample of oxycodone pills to Nelson.

14. Electronic surveillance indicated that Nelson drove back to Indianapolis, Indiana in the Defendant Vehicle. At approximately 8:05 p.m., Boyd stated to the UM, “We want them ... whatever you want to start with us ... we can run through them, period.” The UM replied, “you tell me, how long it take you to get rid of 500?” Boyd replied, “I can get rid of 100 a day, easy.” The UM then stated, “And I got 15, I got 15,000 waiting.”

15. On August 15, 2017, Boyd possessed the following items at his residence located at 9421 E. 10th Street: a firearm; ammunition; a digital scale and other materials for drug

packaging and distribution; approximately 3.5 grams of heroin; approximately 40 hydrocodone pills; and approximately \$19,177 in United States Currency. On August 15, 2017, a federal search warrant was executed at the 9421 E. 10th Street residence, and those items were seized.

16. Also pursuant to the August 15, 2017 search warrant at 9421 E. 10th Street, DEA agents seized the Defendant Vehicle. The Defendant Vehicle was registered to Johnasty L. McDaniel (“McDaniel”). McDaniel was Boyd’s girlfriend and lived with Boyd at the 9421 E. 10th Street residence.

17. On September 13, 2017, an Indictment was filed in cause number 1:17-cr-00190 (Southern District of Indiana) charging Boyd, Quintana, Miller, Nelson, and a fifth individual with nine counts, including Conspiracy to Distribute Controlled Substances in violation of 21 U.S.C. § 846. The indictment gave notice that the United States would seek to forfeit any property “constituting or derived from any proceeds the defendants obtained directly or indirectly as a result of the offenses . . . and any and all property used or intended to be used in any manner or part to commit and to facilitate the commission of the offenses.” Dkt. #28. On April 6, 2018, an Information was filed in cause number 1:18-cr-00106 (Southern District of Indiana) charging Nelson with one count of Conspiracy to Launder Money, in violation of 18 U.S.C. § 1956(h). Dkt. #1. On May 10, 2018, an Information was filed in cause number 1:18-cr-00145 (Southern District of Indiana) charging Boyd with one count of Conspiracy to Launder Money, in violation of 18 U.S.C. § 1956(h). Dkt. #1.

18. On October 11, 2017, the DEA received a timely claim to the Defendant Vehicle from Attorney Stephen Gerald Gray on behalf of McDaniel. No other claims or petitions were received for the Defendant Vehicle.

19. On May 10, 2018, a petition to enter plea of guilty and plea agreement was filed in cause number 1:17-cr-00190 and cause number 1:18-cr-00145 wherein Boyd agreed to plead guilty to one count of Conspiracy to Distribute Controlled Substances, in violation of 21 U.S.C. §§ 841(a)(1) and 846 (Count One, cause number 1:17-cr-00190); and one count of Conspiracy to Launder Money, in violation of 18 U.S.C. § 1956(h) (Count One, cause number 1:18-cr-00145). Dkt. 125. On August 30, 2018, the Court accepted Boyd's pleas and adjudged him guilty. Dkt. 162.

20. On April 6, 2018, a petition to enter plea of guilty and plea agreement was filed in cause number 1:17-cr-00190 and in cause number 1:18-cr-00106 wherein Nelson agreed to plead guilty to Conspiracy to Distribute Controlled Substances, in violation of 21 U.S.C. §§ 841(a)(1) and 846 (Count One, cause number 1:17-cr-00190); and one count of Conspiracy to Launder Money, in violation of 18 U.S.C. § 1956(h) (Count One, cause number 1:18-cr-00106). Dkt. 115. On July 17, 2018, the Court accepted Nelson's pleas and adjudged him guilty. Dkt. 147.

PERTINENT STATUTES

21. Under 21 U.S.C. § 841(a)(1), it is unlawful for any person to manufacture, distribute, or dispense – or possess with intent to manufacture, distribute, or dispense – a controlled substance.

22. Under 21 U.S.C. § 881(a)(4), all conveyances, including vehicles, which are used or are intended for use to transport or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of controlled substances shall be subject to forfeiture to the United States and no property right shall exist in them.

CLAIM FOR RELIEF

23. Based on the facts alleged above, the Defendant Vehicle is a “vehicle[] ... which [was] used, or [was] intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of” controlled substances distributed, dispensed, or acquired in violation of the Controlled Substances Act, and is therefore subject to forfeiture to the United States pursuant to Title 21, United States Code, Section 881(a)(4).

WHEREFORE, the United States prays that the Clerk of the Court issue a warrant for arrest of the Defendant Vehicle pursuant to Rule G(3)(b)(i) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions; that due notice be given to all parties to appear and show cause why the forfeiture should not be decreed; that judgment be entered declaring the Defendant Vehicle forfeited to the United States for disposition according to law; and that the United States be granted all other just and proper relief.

Respectfully submitted,

JOSH J. MINKLER
United States Attorney

By: s/Eric P. Babbs
Eric P. Babbs
Special Assistant United States Attorney
Office of the United States Attorney
10 W. Market St., Suite 2100
Indianapolis, Indiana 46204-3048
Telephone: (317) 226-6333
Fax: (317) 226-5027

VERIFICATION

I, Kimberly C. Gaczkowski, hereby verify and declare under penalty of perjury that I am a Special Agent for United States Drug Enforcement Administration ("DEA"), that I have read the foregoing Verified Complaint in Rem and know the contents thereof, and that the matters contained in the Complaint are true to my own knowledge, except that those matters herein stated to be alleged on information and belief, and as to those matters I believe to be true.

The sources of my knowledge and information and the grounds of my belief are the official files and records of the United States, information supplied to me by other law enforcement offices, as well as my investigation of this case, together with others, as a Special Agent with DEA.

I hereby verify and declare under penalty of perjury that the foregoing is true and correct.

Dated: 12/19/18

Kimberly C. Gaczkowski
Kimberly C. Gaczkowski
Special Agent
DEA

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) _____

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known) _____

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
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v.)	Cause No. 1:19-cv-00032
)	
ONE 2015 CHEVROLET CITY EXPRESS LS)	
VIN 3N63M0YN1FK725252,)	
)	
Defendant.)	

WARRANT FOR ARREST OF PROPERTY

TO: ANY OFFICER OR EMPLOYEE OF THE UNITED STATES

WHEREAS a Complaint for Forfeiture In Rem has been filed in this Court on the 4th day of January, 2019, by Josh J. Minkler, United States Attorney for the Southern District of Indiana, against One 2015 Chevrolet City Express LS VIN: 3N63M0YN1FK725252, defendant herein, for reasons and causes set forth in the Complaint;

YOU ARE HEREBY COMMANDED to take custody of and to deliver the defendant vehicle into the possession of the United States Marshals for the Southern District of Indiana, to be detained in the possession of the Marshals until further order of this Court, and you will make return thereon not later than ten (10) days after execution of process.

Dated: _____

Laura A. Briggs, Clerk
United States District Court
Southern District of Indiana

Arrest Warrant to be issued by the Clerk pursuant to
Rule G(3)(b)(i) of the Supplemental Rules for
Admiralty or Maritime Claims and Asset Forfeiture Actions,
for property in custody of the United States.